



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2021-0263; FRL-8943-02-R2]

#### Approval of Air Quality Implementation Plans; New York; 2011 Periodic Emission Inventory SIP for the Ozone Nonattainment Areas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the New York State Department of Environmental Conservation (NYSDEC). The SIP revision consists of the following: 2011 calendar year ozone precursor emission inventory for volatile organic compounds (VOCs), oxides of nitrogen (NO<sub>x</sub>), and carbon monoxide (CO) for the New York portion of the New York-Northern New Jersey-Long Island, Connecticut NY-NJ-CT area (New York Metropolitan Area, or NYMA) classified as serious ozone nonattainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or standard); and the Jamestown (Chautauqua County) ozone nonattainment area classified as marginal for the 2008 8-hour ozone standard. In addition, the SIP revision also consists of the 2011 calendar year statewide periodic emission inventory for volatile organic compounds, oxides of nitrogen, and carbon monoxide. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This final rule is effective on [Insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R02-OAR- OAR-2021-0263. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose

disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Ysabel Banon, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3382, or by email at [banon.ysabel@epa.gov](mailto:banon.ysabel@epa.gov).

**SUPPLEMENTARY INFORMATION:** The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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#### **I. Background and Purpose**

On July 1, 2021 (86 FR 35030), the EPA published a notice of proposed rulemaking (NPRM) for the New York State Implementation Plan submitted on November 13, 2017. The NPRM proposed approval of the 2011 calendar year ozone season daily and annual ozone precursor emission inventory for carbon monoxide (CO), oxides of nitrogen (NO<sub>x</sub>), and volatile organic compounds (VOCs) for the New York portion of New York-New Jersey-Long Island NY-NJ-CT (NYMA) serious nonattainment area; and for the Jamestown, NY marginal nonattainment area. In addition, the NPRM proposed approval of the 2011 calendar year ozone emission inventory that was developed statewide for New York.

The pollutants included in the inventory are annual emissions for CO, NO<sub>x</sub>, and VOC. These submittals were made, in part to meet requirements for serious areas for the 2008 ozone national ambient air quality standard (NAAQS). Other specific requirements of New York's SIP revisions for the 2008 ozone NAAQS and the rationale for the EPA's proposed action are explained in the NPRM and will not be restated here.

## **II. Response to Comments**

The EPA did not receive any comments on the July 1, 2021 NPRM.

## **III. Final Action**

The EPA is approving revisions to the New York SIP which pertains to the following: 2011 calendar year ozone season daily and annual ozone precursor emission inventories for CO, NO<sub>x</sub>, and VOC for the NYMA portion of New York-New Jersey-Long Island NY-NJ-CT serious nonattainment area, and for the Jamestown marginal nonattainment area. In addition, the EPA is approving the 2011 calendar year ozone emissions inventory that was developed statewide for New York. The pollutants included in the inventory are annual emissions for CO, NO<sub>x</sub>, and VOC.

## **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735 (October 4, 1993)) and 13563 (76 FR 3821 (January 21, 2011));
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255 (August 10, 1999));
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885 (April 23, 1997));
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355 (May 22, 2001));
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629 (February 16, 1994)).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct

costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249 (November 9, 2000)).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

September 27, 2021.

Dated:

Walter Mugdan,  
Acting Regional Administrator,  
EPA Region 2.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart HH—New York**

2. Section 52.1670 is amended in paragraph (e) by adding the entries “2011 base year emissions inventory,” “2011 VOC, NO<sub>x</sub> and CO ozone summer season and annual emission inventory,” and “2011 VOC, NO<sub>x</sub> and CO ozone summer season and annual emission inventory” to the end of the table to read as follows:

#### **§ 52.1670 Identification of plan.**

\* \* \* \* \*

(e) \*\*\*

#### **EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

<b>Action/SIP element</b>	<b>Applicable geographic or nonattainment area</b>	<b>New York submittal date</b>	<b>EPA approval date</b>	<b>Explanation</b>
* * * * *				
2011 base year emissions inventory	State-wide	11/13/2017	[insert date of publication in the Federal Register], [insert Federal Register citation]	• Full approval. •The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.
2011 VOC, NO <sub>x</sub> and CO ozone summer season and	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-	11/13/2017	[insert date of publication in the Federal Register], [insert Federal	• Full approval. •The inventory contains point,

annual emission inventory.	CT 8-hour serious ozone nonattainment area		<b>Register citation]</b>	nonpoint, nonroad, on-road and biogenic source data.
2011 VOC, NOx and CO ozone summer season and annual emission inventory.	Jamestown 8-hour marginal ozone nonattainment area	11/13/2017	<b>[insert date of publication in the Federal Register], [insert Federal Register citation]</b>	<ul style="list-style-type: none"> <li>• Full approval.</li> <li>• The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.</li> </ul>

[FR Doc. 2021-21346 Filed: 9/30/2021 8:45 am; Publication Date: 10/1/2021]